

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE JULY 11, 2011

AMENDED IN SENATE JUNE 9, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1297

Introduced by Assembly Member Chesbro

February 18, 2011

An act to amend, *repeal, and add* Sections 5718, 5720, 5724, 5778, 14680, and 14684 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1297, as amended, Chesbro. Medi-Cal: mental health.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services, including mental health services. The Medi-Cal program is partially governed and funded under federal Medicaid provisions. Under existing law, the State Department of Mental Health (department) is required to provide specialty mental health services for Medi-Cal recipients through fee-for-service or capitated contracts with mental health plans (MHPs). The department establishes standards, guidelines, and reimbursement amounts for specialty mental health services based on the federal Medicaid requirements. Existing law requires counties to certify that required matching funds are available prior to the reimbursement of federal funds.

This bill, *commencing July 1, 2012*, would require the standards, guidelines, and reimbursement amounts to be consistent with federal

Medicaid requirements, as specified in the approved Medicaid state plan and waivers. The bill would also require counties to certify that certified public expenditures have been incurred prior to reimbursement of federal funds. *The bill would, if the reimbursement methodology utilizes federal upper payment limits and the total cost of services exceeds the state maximum rates in effect for the 2011–12 fiscal year, require a county that chooses to claim costs that exceed the state maximum rates with certified public expenditures, to use only local funds, and not state funds, to claim the portion of the costs over the state maximum rates and to enter into and maintain a contract with the department so specifying.*

Existing law establishes procedures, including reimbursement and claiming procedures, reviews and oversight, and appeal processes for MHPs and MHP subcontractors.

The bill, *commencing July 1, 2012*, also would require claims for reimbursement for service to be submitted by MHPs within the timeframes required by federal Medicaid requirements and the approved Medicaid state plan and waivers.

Existing law requires the State Department of Health Care Services and the State Department of Mental Health to jointly develop a new ratesetting methodology for reimbursements for direct client services that meets specified requirements, including that administrative costs be claimed separately and limited to 15% of the total cost of direct client services.

This bill, *commencing July 1, 2012*, would instead require the development of a reimbursement methodology, in consultation with the California Mental Health Directors Association, that is consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 5718 of the Welfare and Institutions Code*
- 2 *is amended to read:*
- 3 5718. (a) (1) This section and Sections 5719 to 5724,
- 4 inclusive, shall apply to mental health services provided by counties
- 5 to Medi-Cal eligible individuals. Counties shall provide services

1 to Medi-Cal beneficiaries and seek the maximum federal
2 reimbursement possible for services rendered to the mentally ill.

3 (2) To the extent permitted under federal law, funds deposited
4 into the local health and welfare trust fund from the Sales Tax
5 Account of the Local Revenue Fund may be used to match federal
6 medicaid funds in order to achieve the maximum federal
7 reimbursement possible for services pursuant to this chapter. If a
8 county applies to use local funds, the department may enforce any
9 additional federal requirements that use may involve, based on
10 standards and guidelines designed to enhance, protect, and
11 maximize the claiming of those resources.

12 (3) The standards and guidelines for the administration of mental
13 health services to Medi-Cal eligible persons shall be based on
14 federal medicaid requirements.

15 (b) With regard to each person receiving mental health services
16 from a county mental health program, the county shall determine
17 whether the person is Medi-Cal eligible and, if determined to be
18 Medi-Cal eligible, the person shall be referred when appropriate
19 to a facility, clinic, or program which is certified for Medi-Cal
20 reimbursement.

21 (c) With regard to county operated facilities, clinics, or programs
22 for which claims are submitted to the department for Medi-Cal
23 reimbursement for mental health services to Medi-Cal eligible
24 individuals, the county shall ensure that all requirements necessary
25 for Medi-Cal reimbursement for these services are complied with,
26 including, but not limited to, utilization review and the submission
27 of year-end cost reports by December 31 following the close of
28 the fiscal year.

29 (d) Counties shall certify to the state that required matching
30 funds are available prior to the reimbursement of federal funds.

31 (e) *This section shall remain in effect only until July 1, 2012,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2013, deletes or extends that date.*

34 SEC. 2. *Section 5718 is added to the Welfare and Institutions*
35 *Code, to read:*

36 5718. (a) (1) *This section and Sections 5719 to 5724,*
37 *inclusive, shall apply to mental health services provided by counties*
38 *to Medi-Cal eligible individuals. Counties shall provide services*
39 *to Medi-Cal beneficiaries and seek the maximum federal*
40 *reimbursement possible for services rendered to the mentally ill.*

1 (2) *To the extent permitted under federal law, funds deposited*
2 *into the local health and welfare trust fund from the Sales Tax*
3 *Account of the Local Revenue Fund may be used to match federal*
4 *Medicaid funds in order to achieve the maximum federal*
5 *reimbursement possible for services pursuant to this chapter.*

6 (3) *The standards and guidelines for the administration of*
7 *mental health services to Medi-Cal eligible persons shall be*
8 *consistent with federal Medicaid requirements, as specified in the*
9 *approved Medicaid state plan and waivers to ensure full and timely*
10 *federal reimbursement to counties for services that are rendered*
11 *and claimed consistent with federal Medicaid requirements.*

12 (b) *With regard to each person receiving mental health services*
13 *from a county mental health program, the county shall determine*
14 *whether the person is Medi-Cal eligible and, if determined to be*
15 *Medi-Cal eligible, the person shall be referred when appropriate*
16 *to a facility, clinic, or program which is certified for Medi-Cal*
17 *reimbursement.*

18 (c) *With regard to county operated facilities, clinics, or*
19 *programs for which claims are submitted to the department for*
20 *Medi-Cal reimbursement for mental health services to Medi-Cal*
21 *eligible individuals, the county shall ensure that all requirements*
22 *necessary for Medi-Cal reimbursement for these services are*
23 *complied with, including, but not limited to, utilization review and*
24 *the submission of yearend cost reports by December 31 following*
25 *the close of the fiscal year.*

26 (d) *Counties shall certify to the state that required certified*
27 *public expenditures have been incurred prior to the reimbursement*
28 *of federal funds.*

29 (e) *This section shall become operative on July 1, 2012.*

30 SEC. 3. *Section 5720 of the Welfare and Institutions Code is*
31 *amended to read:*

32 5720. (a) *Notwithstanding any other provision of law, the*
33 *director, in the 1993–94 fiscal year and fiscal years thereafter,*
34 *subject to the approval of the Director of Health Services, shall*
35 *establish the amount of reimbursement for services provided by*
36 *county mental health programs to Medi-Cal eligible individuals.*

37 (b) *Notwithstanding this section, in the event that a health*
38 *facility has entered into a negotiated rate agreement pursuant to*
39 *Article 2.6 (commencing with Section 14081) of Chapter 7 of Part*

1 4 of Division 9, the facility's rates shall be governed by that
2 agreement.

3 *(c) This section shall remain in effect only until July 1, 2012,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2013, deletes or extends that date.*

6 SEC. 4. Section 5720 is added to the Welfare and Institutions
7 Code, to read:

8 5720. (a) Notwithstanding any other provision of law, the
9 director, in the 1993–94 fiscal year and fiscal years thereafter,
10 subject to the approval of the Director of Health Care Services,
11 shall establish the amount of reimbursement for services provided
12 by county mental health programs to Medi-Cal eligible individuals.
13 For purposes of federal reimbursement to counties that have
14 certified to the state that certified public expenditures have been
15 incurred, the reimbursement amounts shall be consistent with
16 federal Medicaid requirements for calculating federal upper
17 payment limits, as specified in the approved Medicaid state plan
18 and waivers.

19 (b) If the reimbursement methodology utilizes federal upper
20 payment limits and the total cost of services exceeds the state
21 maximum rates in effect for the 2011–12 fiscal year, a county may
22 use certified public expenditures to claim the costs of services that
23 exceed the state maximum rates, up to the federal upper payment
24 limits. If a county chooses to claim costs that exceed the state
25 maximum rates with certified public expenditures, the county shall
26 use only local funds, and not state funds, to claim the portion of
27 the costs over the state maximum rates. As a condition of receiving
28 reimbursement up to the federal upper payment limits, a county
29 shall enter into and maintain an agreement with the department
30 implementing this subdivision.

31 (c) Notwithstanding this section, in the event that a health
32 facility has entered into a negotiated rate agreement pursuant to
33 Article 2.6 (commencing with Section 14081) of Chapter 7 of Part
34 4 of Division 9, the facility's rates shall be governed by that
35 agreement.

36 (d) This section shall become operative on July 1, 2012.

37 SEC. 5. Section 5724 of the Welfare and Institutions Code is
38 amended to read:

39 5724. (a) The department and the State Department of Health
40 Services shall jointly develop a new ratesetting methodology for

1 use in the Short-Doyle Medi-Cal system that maximizes federal
2 funding and utilizes, as much as practicable, federal ~~medicare~~
3 *Medicare* reimbursement principles. The departments shall work
4 with the counties and the federal Health Care Financing
5 Administration in the development of the methodology required
6 by this section.

7 (b) Rates developed through the methodology required by this
8 section shall apply only to reimbursement for direct client services.

9 (c) Administrative costs shall be claimed separately and shall
10 be limited to 15 percent of the total cost of direct client services.

11 (d) The cost of performing utilization reviews shall be claimed
12 separately and shall not be included in administrative cost.

13 (e) The ratesetting methodology established pursuant to this
14 section shall contain incentives relating to economy and efficiency
15 in service delivery.

16 (f) The rates established for direct client services pursuant to
17 this section shall be based on increments of time for all
18 noninpatient services.

19 (g) The ratesetting methodology shall not be implemented until
20 it has received any necessary federal approvals.

21 (h) *This section shall remain in effect only until July 1, 2012,*
22 *and as of that date is repealed, unless a later enacted statute, that*
23 *is enacted before January 1, 2013, deletes or extends that date.*

24 SEC. 6. *Section 5724 is added to the Welfare and Institutions*
25 *Code, to read:*

26 5724. (a) *The department and the State Department of Health*
27 *Care Services shall jointly develop, in consultation with the*
28 *California Mental Health Directors Association, a reimbursement*
29 *methodology for use in the Short-Doyle Medi-Cal system that*
30 *maximizes federal funding and utilizes, as much as practicable,*
31 *federal Medicaid and Medicare reimbursement principles. The*
32 *departments shall work with the federal Centers for Medicare and*
33 *Medicaid Services in the development of the methodology required*
34 *by this section.*

35 (b) *Reimbursement amounts developed through the methodology*
36 *required by this section shall be consistent with federal Medicaid*
37 *requirements and the approved Medicaid state plan and waivers.*

38 (c) *Administrative costs shall be claimed separately in a manner*
39 *consistent with federal Medicaid requirements and the approved*

1 *Medicaid state plan and waivers and shall be limited to 15 percent*
2 *of the total actual cost of direct client services.*

3 *(d) The cost of performing quality assurance and utilization*
4 *review activities shall be reimbursed separately and shall not be*
5 *included in administrative cost.*

6 *(e) The reimbursement methodology established pursuant to*
7 *this section shall be based upon certified public expenditures,*
8 *which encourage economy and efficiency in service delivery.*

9 *(f) The reimbursement amounts established for direct client*
10 *services pursuant to this section shall be based on increments of*
11 *time for all noninpatient services.*

12 *(g) The reimbursement methodology shall not be implemented*
13 *until it has received any necessary federal approvals.*

14 *(h) This section shall become operative on July 1, 2012.*

15 *SEC. 7. Section 5778 of the Welfare and Institutions Code is*
16 *amended to read:*

17 5778. (a) This section shall be limited to specialty mental
18 health services reimbursed through a fee-for-service payment
19 system.

20 (b) The following provisions shall apply to matters related to
21 specialty mental health services provided under the Medi-Cal
22 specialty mental health services waiver, including, but not limited
23 to, reimbursement and claiming procedures, reviews and oversight,
24 and appeal processes for mental health plans (MHPs) and MHP
25 subcontractors.

26 (1) During the initial phases of the implementation of this part,
27 as determined by the department, the MHP contractor and
28 subcontractors shall submit claims under the Medi-Cal program
29 for eligible services on a fee-for-service basis.

30 (2) A qualifying county may elect, with the approval of the
31 department, to operate under the requirements of a capitated,
32 integrated service system field test pursuant to Section 5719.5
33 rather than this part, in the event the requirements of the two
34 programs conflict. A county that elects to operate under that section
35 shall comply with all other provisions of this part that do not
36 conflict with that section.

37 (3) (A) No sooner than October 1, 1994, state matching funds
38 for Medi-Cal fee-for-service acute psychiatric inpatient services,
39 and associated administrative days, shall be transferred to the
40 department. No later than July 1, 1997, upon agreement between

1 the department and the State Department of Health Care Services,
2 state matching funds for the remaining Medi-Cal fee-for-service
3 mental health services and the state matching funds associated
4 with field test counties under Section 5719.5 shall be transferred
5 to the department.

6 (B) The department, in consultation with the State Department
7 of Health Care Services, a statewide organization representing
8 counties, and a statewide organization representing health
9 maintenance organizations shall develop a timeline for the transfer
10 of funding and responsibility for fee-for-service mental health
11 services from Medi-Cal managed care plans to MHPs. In
12 developing the timeline, the department shall develop screening,
13 referral, and coordination guidelines to be used by Medi-Cal
14 managed care plans and MHPs.

15 (4) (A) (i) A MHP subcontractor providing specialty mental
16 health services shall be financially responsible for federal audit
17 exceptions or disallowances to the extent that these exceptions or
18 disallowances are based on the MHP subcontractor's conduct or
19 determinations.

20 (ii) The state shall be financially responsible for federal audit
21 exceptions or disallowances to the extent that these exceptions or
22 disallowances are based on the state's conduct or determinations.
23 The state shall not withhold payment from a MHP for exceptions
24 or disallowances that the state is financially responsible for
25 pursuant to this clause.

26 (iii) A MHP shall be financially responsible for state audit
27 exceptions or disallowances to the extent that these exceptions or
28 disallowances are based on the MHP's conduct or determinations.
29 A MHP shall not withhold payment from a MHP subcontractor
30 for exceptions or disallowances for which the MHP is financially
31 responsible pursuant to this clause.

32 (B) For purposes of subparagraph (A), a "determination" shall
33 be shown by a written document expressly stating the
34 determination, while "conduct" shall be shown by any credible,
35 legally admissible evidence.

36 (C) The department and the State Department of Health Care
37 Services shall work jointly with MHPs in initiating any necessary
38 appeals. The department may invoice or offset the amount of any
39 federal disallowance or audit exception against subsequent claims
40 from the MHP or MHP subcontractor. This offset may be done at

1 any time, after the audit exception or disallowance has been
2 withheld from the federal financial participation claim made by
3 the State Department of Health Care Services. The maximum
4 amount that may be withheld shall be 25 percent of each payment
5 to the plan or subcontractor.

6 (5) (A) Oversight by the department of the MHPs and MHP
7 subcontractors may include client record reviews of Early Periodic
8 Screening Diagnosis and Treatment (EPSDT) specialty mental
9 health services under the Medi-Cal specialty mental health services
10 waiver in addition to other audits or reviews that are conducted.

11 (B) The department may contract with an independent,
12 nongovernmental entity to conduct client record reviews. The
13 contract awarded in connection with this section shall be on a
14 competitive bid basis, pursuant to the Department of General
15 Services contracting requirements, and shall meet both of the
16 following additional requirements:

17 (i) Require the entity awarded the contract to comply with all
18 federal and state privacy laws, including, but not limited to, the
19 federal Health Insurance Portability and Accountability Act
20 (HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing
21 regulations, the Confidentiality of Medical Information Act (Part
22 2.6 (commencing with Section 56) of Division 1 of the Civil Code),
23 and Section 1798.81.5 of the Civil Code. The entity shall be subject
24 to existing penalties for violation of these laws.

25 (ii) Prohibit the entity awarded the contract from using, selling,
26 or disclosing client records for a purpose other than the one for
27 which the record was given.

28 (C) For purposes of this paragraph, the following terms shall
29 have the following meanings:

30 (i) "Client record" means a medical record, chart, or similar
31 file, as well as other documents containing information regarding
32 an individual recipient of services, including, but not limited to,
33 clinical information, dates and times of services, and other
34 information relevant to the individual and services provided and
35 that evidences compliance with legal requirements for Medi-Cal
36 reimbursement.

37 (ii) "Client record review" means examination of the client
38 record for a selected individual recipient for the purpose of
39 confirming the existence of documents that verify compliance with

1 legal requirements for claims submitted for Medi-Cal
2 reimbursement.

3 (D) The department shall recover overpayments of federal
4 financial participation from MHPs within the timeframes required
5 by federal law and regulation and return those funds to the State
6 Department of Health Care Services for repayment to the federal
7 Centers for Medicare and Medicaid Services. The department shall
8 recover overpayments of General Fund moneys utilizing the
9 recoupment methods and timeframes required by the State
10 Administrative Manual.

11 (6) (A) The department, in consultation with mental health
12 stakeholders, the California Mental Health Directors Association,
13 and MHP subcontractor representatives, shall provide an appeals
14 process that specifies a progressive process for resolution of
15 disputes about claims or recoupments relating to specialty mental
16 health services under the Medi-Cal specialty mental health services
17 waiver.

18 (B) The department shall provide MHPs and MHP
19 subcontractors the opportunity to directly appeal findings in
20 accordance with procedures that are similar to those described in
21 Article 1.5 (commencing with Section 51016) of Chapter 3 of
22 Subdivision 1 of Division 3 of Title 22 of the California Code of
23 Regulations, until new regulations for a progressive appeals process
24 are promulgated. When an MHP subcontractor initiates an appeal,
25 it shall give notice to the MHP. The department shall propose a
26 rulemaking package by no later than the end of the 2008–09 fiscal
27 year to amend the existing appeals process. The reference in this
28 subparagraph to the procedures described in Article 1.5
29 (commencing with Section 51016) of Chapter 3 of Subdivision 1
30 of Division 3 of Title 22 of the California Code of Regulations,
31 shall only apply to those appeals addressed in this subparagraph.

32 (C) The department shall develop regulations as necessary to
33 implement this paragraph.

34 (7) The department shall assume the applicable program
35 oversight authority formerly provided by the State Department of
36 Health Care Services, including, but not limited to, the oversight
37 of utilization controls as specified in Section 14133. The MHP
38 shall include a requirement in any subcontracts that all inpatient
39 subcontractors maintain necessary licensing and certification.
40 MHPs shall require that services delivered by licensed staff are

1 within their scope of practice. Nothing in this part shall prohibit
2 the MHPs from establishing standards that are in addition to the
3 minimum federal and state requirements, provided that these
4 standards do not violate federal and state Medi-Cal requirements
5 and guidelines.

6 (8) Subject to federal approval and consistent with state
7 requirements, the MHP may negotiate rates with providers of
8 mental health services.

9 (9) Under the fee-for-service payment system, any excess in
10 the payment set forth in the contract over the expenditures for
11 services by the plan shall be spent for the provision of specialty
12 mental health services under the Medi-Cal specialty mental health
13 service waiver and related administrative costs.

14 (10) Nothing in this part shall limit the MHP from being
15 reimbursed appropriate federal financial participation for any
16 qualified services even if the total expenditures for service exceeds
17 the contract amount with the department. Matching nonfederal
18 public funds shall be provided by the plan for the federal financial
19 participation matching requirement.

20 (c) This subdivision shall apply to managed mental health care
21 funding allocations and risk-sharing determinations and
22 arrangements.

23 (1) The department shall allocate and distribute annually the
24 full appropriated amount to each MHP for the managed mental
25 health care program, exclusive of the EPSDT specialty mental
26 health services program, provided under the mental health services
27 waiver. The allocated funds shall be considered to be funds of the
28 plan to be used as specified in this part.

29 (2) Each fiscal year the state matching funds for Medi-Cal
30 specialty mental health services shall be included in the annual
31 budget for the department. The amount included shall be based on
32 historical cost, adjusted for changes in the number of Medi-Cal
33 beneficiaries and other relevant factors. The appropriation for
34 funding the state share of the costs for EPSDT specialty mental
35 health services provided under the Medi-Cal specialty mental
36 health services waiver shall only be used for reimbursement
37 payments of claims for those services.

38 (3) Initially, the MHP shall use the fiscal intermediary of the
39 Medi-Cal program of the State Department of Health Care Services
40 for the processing of claims for inpatient psychiatric hospital

1 services and may be required to use that fiscal intermediary for
2 the remaining mental health services. The providers for other
3 Short-Doyle Medi-Cal services shall not be initially required to
4 use the fiscal intermediary but may be required to do so on a date
5 to be determined by the department. The department and its MHPs
6 shall be responsible for the initial incremental increased matching
7 costs of the fiscal intermediary for claims processing and
8 information retrieval associated with the operation of the services
9 funded by the transferred funds.

10 (4) The goal for funding of the future capitated system shall be
11 to develop statewide rates for beneficiary, by aid category and
12 with regional price differentiation, within a reasonable time period.
13 The formula for distributing the state matching funds transferred
14 to the department for acute inpatient psychiatric services to the
15 participating counties shall be based on the following principles:

16 (A) Medi-Cal state General Fund matching dollars shall be
17 distributed to counties based on historic Medi-Cal acute inpatient
18 psychiatric costs for the county's beneficiaries and on the number
19 of persons eligible for Medi-Cal in that county.

20 (B) All counties shall receive a baseline based on historic and
21 projected expenditures up to October 1, 1994.

22 (C) Projected inpatient growth for the period October 1, 1994,
23 to June 30, 1995, inclusive, shall be distributed to counties below
24 the statewide average per eligible person on a proportional basis.
25 The average shall be determined by the relative standing of the
26 aggregate of each county's expenditures of mental health Medi-Cal
27 dollars per beneficiary. Total Medi-Cal dollars shall include both
28 fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for
29 both acute inpatient psychiatric services, outpatient mental health
30 services, and psychiatric nursing facility services, both in facilities
31 that are not designated as institutions for mental disease and for
32 beneficiaries who are under 22 years of age and beneficiaries who
33 are over 64 years of age in facilities that are designated as
34 institutions for mental disease.

35 (D) There shall be funds set aside for a self-insurance risk pool
36 for small counties. The department may provide these funds
37 directly to the administering entity designated in writing by all
38 counties participating in the self-insurance risk pool. The small
39 counties shall assume all responsibility and liability for appropriate
40 administration of these funds. For purposes of this subdivision,

“small counties” means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

(5) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse MHPs in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the MHP for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda.....	3.5991
Alpine.....	.0050
Amador.....	.0490
Butte.....	.8724
Calaveras.....	.0683
Colusa.....	.0294
Contra Costa.....	1.5544
Del Norte.....	.1359
El Dorado.....	.2272
Fresno.....	2.5612
Glenn.....	.0597
Humboldt.....	.1987
Imperial.....	.6269
Inyo.....	.0802
Kern.....	2.6309

	County	Percentage
1	Kings.....	.4371
2	Lake.....	.2955
3	Lassen.....	.1236
4	Los Angeles.....	31.3239
5	Madera.....	.3882
6	Marin.....	1.0290
7	Mariposa.....	.0501
8	Mendocino.....	.3038
9	Merced.....	.5077
10	Modoc.....	.0176
11	Mono.....	.0096
12	Monterey.....	.7351
13	Napa.....	.2909
14	Nevada.....	.1489
15	Orange.....	8.0627
16	Placer.....	.2366
17	Plumas.....	.0491
18	Riverside.....	4.4955
19	Sacramento.....	3.3506
20	San Benito.....	.1171
21	San Bernardino.....	6.4790
22	San Diego.....	12.3128
23	San Francisco.....	3.5473
24	San Joaquin.....	1.4813
25	San Luis Obispo.....	.2660
26	San Mateo.....	.0000
27	Santa Barbara.....	.0000
28	Santa Clara.....	1.9284
29	Santa Cruz.....	1.7571
30	Shasta.....	.3997
31	Sierra.....	.0105
32	Siskiyou.....	.1695
33	Solano.....	.0000
34	Sonoma.....	.5766
35	Stanislaus.....	1.7855
36	Sutter/Yuba.....	.7980
37	Tehama.....	.1842
38	Trinity.....	.0271
39	Tulare.....	2.1314
40		

County	Percentage
Tuolumne.....	.2646
Ventura.....	.8058
Yolo.....	.4043

(6) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other specialty mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(7) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements. The share of cost ratio arrangement for EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver between the state and the counties in existence during the 2007–08 fiscal year shall remain as the share of cost ratio arrangement for these services unless changed by statute.

(8) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(9) (A) For the managed mental health care program, exclusive of EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver, the department shall establish, by regulation, a risk-sharing arrangement between the department and counties that contract with the department as MHPs to provide an increase in the state General Fund allocation, subject to the availability of funds, to the MHP under this section, where there is a change in the obligations of the MHP required by federal or state law or regulation, or required by a change in the interpretation or implementation of any such law or regulation which significantly increases the cost to the MHP of performing under the terms of its contract.

1 (B) During the time period required to redetermine the
2 allocation, payment to the MHP of the allocation in effect at the
3 time the change occurred shall be considered an interim payment,
4 and shall be subject to increase effective as of the date on which
5 the change is effective.

6 (C) In order to be eligible to participate in the risk-sharing
7 arrangement, the county shall demonstrate, to the satisfaction of
8 the department, its commitment or plan of commitment of all
9 annual funding identified in the total mental health resource base,
10 from whatever source, but not including county funds beyond the
11 required maintenance of effort, to be spent on specialty mental
12 health services. This determination of eligibility shall be made
13 annually. The department may limit the participation in a
14 risk-sharing arrangement of any county that transfers funds from
15 the mental health account to the social services account or the
16 health services account, in accordance with Section 17600.20
17 during the year to which the transfers apply to MHP expenditures
18 for the new obligation that exceed the total mental health resource
19 base, as measured before the transfer of funds out of the mental
20 health account and not including county funds beyond the required
21 maintenance of effort. The State Department of Mental Health
22 shall participate in a risk-sharing arrangement only after a county
23 has expended its total annual mental health resource base.

24 (d) The following provisions govern the administrative
25 responsibilities of the department and the State Department of
26 Health Care Services:

27 (1) It is the intent of the Legislature that the department and the
28 State Department of Health Care Services consult and collaborate
29 closely regarding administrative functions related to and supporting
30 the managed mental health care program in general, and the
31 delivery and provision of EPSDT specialty mental health services
32 provided under the Medi-Cal specialty mental health services
33 waiver, in particular. To this end, the following provisions shall
34 apply:

35 (A) Commencing in the 2009–10 fiscal year, and each fiscal
36 year thereafter, the department shall consult with the State
37 Department of Health Care Services and amend the interagency
38 agreement between the two departments as necessary to include
39 improvements or updates to procedures for the accurate and timely
40 processing of Medi-Cal claims for specialty mental health services

1 provided under the Medi-Cal specialty mental health services
2 waiver. The interagency agreement shall ensure that there are
3 consistent and adequate time limits, consistent with federal and
4 state law, for claims submitted and the need to correct errors.

5 (B) Commencing in the 2009–10 fiscal year, and each fiscal
6 year thereafter, upon a determination by the department and the
7 State Department of Health Care Services that it is necessary to
8 amend the interagency agreement, the department and the State
9 Department of Health Care Services shall process the interagency
10 agreement to ensure final approval by January 1, for the following
11 fiscal year, and as adjusted by the budgetary process.

12 (C) The interagency agreement shall include, at a minimum, all
13 of the following:

14 (i) A process for ensuring the completeness, validity, and timely
15 processing of Medi-Cal claims as mandated by the federal Centers
16 for Medicare and Medicaid Services.

17 (ii) Procedures and timeframes by which the department shall
18 submit complete, valid, and timely invoices to the State Department
19 of Health Care Services, which shall notify the department of
20 inconsistencies in invoices that may delay payments.

21 (iii) Procedures and timeframes by which the department shall
22 notify MHPs of inconsistencies that may delay payment.

23 (2) (A) The department shall consult with the State Department
24 of Health Care Services and the California Mental Health Directors
25 Association in February and September of each year to review the
26 methodology used to forecast future trends in the provision of
27 EPSDT specialty mental health services provided under the
28 Medi-Cal specialty mental health services waiver, to estimate these
29 yearly EPSDT specialty mental health services related costs, and
30 to estimate the annual amount of funding required for
31 reimbursements for EPSDT specialty mental health services to
32 ensure relevant factors are incorporated in the methodology. The
33 estimates of costs and reimbursements shall include both federal
34 financial participation amounts and any state General Fund amounts
35 for EPSDT specialty mental health services provided under the
36 State Medi-Cal specialty mental health services waiver. The
37 department shall provide the State Department of Health Care
38 Services the estimate adjusted to a cash basis.

39 (B) The estimate of annual funding described in subparagraph
40 (A) shall, include, but not be limited to, the following factors:

1 (i) The impacts of interactions among caseload, type of services,
2 amount or number of services provided, and billing unit cost of
3 services provided.

4 (ii) A systematic review of federal and state policies, trends
5 over time, and other causes of change.

6 (C) The forecasting and estimates performed under this
7 paragraph are primarily for the purpose of providing the Legislature
8 and the Department of Finance with projections that are as accurate
9 as possible for the state budget process, but will also be informative
10 and useful for other purposes. Therefore, it is the intent of the
11 Legislature that the information produced under this paragraph
12 shall be taken into consideration under paragraph (10) of
13 subdivision (c).

14 *(e) This section shall remain in effect only until July 1, 2012,*
15 *and as of that date is repealed, unless a later enacted statute, that*
16 *is enacted before January 1, 2013, deletes or extends that date.*

17 SEC. 8. Section 5778 is added to the Welfare and Institutions
18 Code, to read:

19 5778. (a) *This section shall be limited to specialty mental*
20 *health services reimbursed through a fee-for-service payment*
21 *system.*

22 (b) *The following provisions shall apply to matters related to*
23 *specialty mental health services provided under the Medi-Cal*
24 *specialty mental health services waiver, including, but not limited*
25 *to, reimbursement and claiming procedures, reviews and oversight,*
26 *and appeal processes for mental health plans (MHPs) and MHP*
27 *subcontractors.*

28 (1) *During the initial phases of the implementation of this part,*
29 *as determined by the department, the MHP contractor and*
30 *subcontractors shall submit claims under the Medi-Cal program*
31 *for eligible services on a fee-for-service basis.*

32 (2) *A qualifying county may elect, with the approval of the*
33 *department, to operate under the requirements of a capitated,*
34 *integrated service system field test, pursuant to Section 5719.5*
35 *rather than this part, in the event the requirements of the two*
36 *programs conflict. A county that elects to operate under that*
37 *section shall comply with all other provisions of this part that do*
38 *not conflict with that section.*

39 (3) (A) *No sooner than October 1, 1994, state matching funds*
40 *for Medi-Cal fee-for-service acute psychiatric inpatient services,*

1 and associated administrative days, shall be transferred to the
2 department. No later than July 1, 1997, upon agreement between
3 the department and the State Department of Health Care Services,
4 state matching funds for the remaining Medi-Cal fee-for-service
5 mental health services and the state matching funds associated
6 with field test counties under Section 5719.5 shall be transferred
7 to the department.

8 (B) The department, in consultation with the State Department
9 of Health Care Services, a statewide organization representing
10 counties, and a statewide organization representing health
11 maintenance organizations shall develop a timeline for the transfer
12 of funding and responsibility for fee-for-service mental health
13 services from Medi-Cal managed care plans to MHPs. In
14 developing the timeline, the department shall develop screening,
15 referral, and coordination guidelines to be used by Medi-Cal
16 managed care plans and MHPs.

17 (4) (A) (i) A MHP subcontractor providing specialty mental
18 health services shall be financially responsible for federal audit
19 exceptions or disallowances to the extent that these exceptions or
20 disallowances are based on the MHP subcontractor's conduct or
21 determinations.

22 (ii) The state shall be financially responsible for federal audit
23 exceptions or disallowances to the extent that these exceptions or
24 disallowances are based on the state's conduct or determinations.
25 The state shall not withhold payment from a MHP for exceptions
26 or disallowances that the state is financially responsible for
27 pursuant to this clause.

28 (iii) A MHP shall be financially responsible for state audit
29 exceptions or disallowances to the extent that these exceptions or
30 disallowances are based on the MHP's conduct or determinations.
31 A MHP shall not withhold payment from a MHP subcontractor
32 for exceptions or disallowances for which the MHP is financially
33 responsible pursuant to this clause.

34 (B) For purposes of subparagraph (A), a "determination" shall
35 be shown by a written document expressly stating the
36 determination, while "conduct" shall be shown by any credible,
37 legally admissible evidence.

38 (C) The department and the State Department of Health Care
39 Services shall work jointly with MHPs in initiating any necessary
40 appeals. The department may invoice or offset the amount of any

1 *federal disallowance or audit exception against subsequent claims*
2 *from the MHP or MHP subcontractor. This offset may be done at*
3 *any time, after the audit exception or disallowance has been*
4 *withheld from the federal financial participation claim made by*
5 *the State Department of Health Care Services. The maximum*
6 *amount that may be withheld shall be 25 percent of each payment*
7 *to the plan or subcontractor.*

8 (5) (A) *Oversight by the department of the MHPs and MHP*
9 *subcontractors may include client record reviews of Early Periodic*
10 *Screening Diagnosis and Treatment (EPSDT) specialty mental*
11 *health services under the Medi-Cal specialty mental health services*
12 *waiver in addition to other audits or reviews that are conducted.*

13 (B) *The department may contract with an independent,*
14 *nongovernmental entity to conduct client record reviews. The*
15 *contract awarded in connection with this section shall be on a*
16 *competitive bid basis, pursuant to the Department of General*
17 *Services contracting requirements, and shall meet both of the*
18 *following additional requirements:*

19 (i) *Require the entity awarded the contract to comply with all*
20 *federal and state privacy laws, including, but not limited to, the*
21 *federal Health Insurance Portability and Accountability Act*
22 *(HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing*
23 *regulations, the Confidentiality of Medical Information Act (Part*
24 *2.6 (commencing with Section 56) of Division 1 of the Civil Code),*
25 *and Section 1798.81.5 of the Civil Code. The entity shall be subject*
26 *to existing penalties for violation of these laws.*

27 (ii) *Prohibit the entity awarded the contract from using, selling,*
28 *or disclosing client records for a purpose other than the one for*
29 *which the record was given.*

30 (C) *For purposes of this paragraph, the following terms shall*
31 *have the following meanings:*

32 (i) *“Client record” means a medical record, chart, or similar*
33 *file, as well as other documents containing information regarding*
34 *an individual recipient of services, including, but not limited to,*
35 *clinical information, dates and times of services, and other*
36 *information relevant to the individual and services provided and*
37 *that evidences compliance with legal requirements for Medi-Cal*
38 *reimbursement.*

39 (ii) *“Client record review” means examination of the client*
40 *record for a selected individual recipient for the purpose of*

1 *confirming the existence of documents that verify compliance with*
2 *legal requirements for claims submitted for Medi-Cal*
3 *reimbursement.*

4 *(D) The department shall recover overpayments of federal*
5 *financial participation from MHPs within the timeframes required*
6 *by federal law and regulation and return those funds to the State*
7 *Department of Health Care Services for repayment to the federal*
8 *Centers for Medicare and Medicaid Services. The department shall*
9 *recover overpayments of General Fund moneys utilizing the*
10 *recoupment methods and timeframes required by the State*
11 *Administrative Manual.*

12 *(6) (A) The department, in consultation with mental health*
13 *stakeholders, the California Mental Health Directors Association,*
14 *and MHP subcontractor representatives, shall provide an appeals*
15 *process that specifies a progressive process for resolution of*
16 *disputes about claims or recoupments relating to specialty mental*
17 *health services under the Medi-Cal specialty mental health services*
18 *waiver.*

19 *(B) The department shall provide MHPs and MHP*
20 *subcontractors the opportunity to directly appeal findings in*
21 *accordance with procedures that are similar to those described*
22 *in Article 1.5 (commencing with Section 51016) of Chapter 3 of*
23 *Subdivision 1 of Division 3 of Title 22 of the California Code of*
24 *Regulations, until new regulations for a progressive appeals*
25 *process are promulgated. When an MHP subcontractor initiates*
26 *an appeal, it shall give notice to the MHP. The department shall*
27 *propose a rulemaking package by no later than the end of the*
28 *2008–09 fiscal year to amend the existing appeals process. The*
29 *reference in this subparagraph to the procedures described in*
30 *Article 1.5 (commencing with Section 51016) of Chapter 3 of*
31 *Subdivision 1 of Division 3 of Title 22 of the California Code of*
32 *Regulations, shall only apply to those appeals addressed in this*
33 *subparagraph.*

34 *(C) The department shall develop regulations as necessary to*
35 *implement this paragraph.*

36 *(7) The department shall assume the applicable program*
37 *oversight authority formerly provided by the State Department of*
38 *Health Care Services, including, but not limited to, the oversight*
39 *of utilization controls as specified in Section 14133. The MHP*
40 *shall include a requirement in any subcontracts that all inpatient*

1 subcontractors maintain necessary licensing and certification.
2 MHPs shall require that services delivered by licensed staff are
3 within their scope of practice. Nothing in this part shall prohibit
4 the MHPs from establishing standards that are in addition to the
5 minimum federal and state requirements, provided that these
6 standards do not violate federal and state Medi-Cal requirements
7 and guidelines.

8 (8) Subject to federal approval and consistent with state
9 requirements, the MHP may negotiate rates with providers of
10 mental health services.

11 (9) Under the fee-for-service payment system, any excess in the
12 payment set forth in the contract over the expenditures for services
13 by the plan shall be spent for the provision of specialty mental
14 health services under the Medi-Cal specialty mental health service
15 waiver and related administrative costs.

16 (10) Nothing in this part shall limit the MHP from being
17 reimbursed the full and appropriate federal financial participation
18 for any qualified services even if the total expenditures for service
19 exceeds the contract amount with the department. Matching
20 nonfederal public funds shall be provided by the plan for the
21 federal financial participation matching requirement.

22 (11) Notwithstanding Section 14115, claims for reimbursement
23 for service pursuant to this part shall be submitted by MHPs within
24 the timeframes required by federal Medicaid requirements and
25 the approved Medicaid state plan and waivers.

26 (c) This subdivision shall apply to managed mental health care
27 funding allocations and risk-sharing determinations and
28 arrangements.

29 (1) The department shall allocate and distribute annually the
30 full appropriated amount to each MHP for the managed mental
31 health care program, exclusive of the EPSDT specialty mental
32 health services program, provided under the mental health services
33 waiver. The allocated funds shall be considered to be funds of the
34 plan to be used as specified in this part.

35 (2) Each fiscal year the state matching funds for Medi-Cal
36 specialty mental health services shall be included in the annual
37 budget for the department. The amount included shall be based
38 on historical cost, adjusted for changes in the number of Medi-Cal
39 beneficiaries and other relevant factors. The appropriation for
40 funding the state share of the costs for EPSDT specialty mental

1 *health services provided under the Medi-Cal specialty mental*
2 *health services waiver shall only be used for reimbursement*
3 *payments of claims for those services.*

4 *(3) Initially, the MHP shall use the fiscal intermediary of the*
5 *Medi-Cal program of the State Department of Health Care Services*
6 *for the processing of claims for inpatient psychiatric hospital*
7 *services and may be required to use that fiscal intermediary for*
8 *the remaining mental health services. The providers for other*
9 *Short-Doyle Medi-Cal services shall not be initially required to*
10 *use the fiscal intermediary but may be required to do so on a date*
11 *to be determined by the department. The department and its MHPs*
12 *shall be responsible for the initial incremental increased matching*
13 *costs of the fiscal intermediary for claims processing and*
14 *information retrieval associated with the operation of the services*
15 *funded by the transferred funds.*

16 *(4) The goal for funding of the future capitated system shall be*
17 *to develop statewide rates for beneficiary, by aid category and*
18 *with regional price differentiation, within a reasonable time period.*
19 *The formula for distributing the state matching funds transferred*
20 *to the department for acute inpatient psychiatric services to the*
21 *participating counties shall be based on the following principles:*

22 *(A) Medi-Cal state General Fund matching dollars shall be*
23 *distributed to counties based on historic Medi-Cal acute inpatient*
24 *psychiatric costs for the county's beneficiaries and on the number*
25 *of persons eligible for Medi-Cal in that county.*

26 *(B) All counties shall receive a baseline based on historic and*
27 *projected expenditures up to October 1, 1994.*

28 *(C) Projected inpatient growth for the period October 1, 1994,*
29 *to June 30, 1995, inclusive, shall be distributed to counties below*
30 *the statewide average per eligible person on a proportional basis.*
31 *The average shall be determined by the relative standing of the*
32 *aggregate of each county's expenditures of mental health Medi-Cal*
33 *dollars per beneficiary. Total Medi-Cal dollars shall include both*
34 *fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for*
35 *both acute inpatient psychiatric services, outpatient mental health*
36 *services, and psychiatric nursing facility services, both in facilities*
37 *that are not designated as institutions for mental disease and for*
38 *beneficiaries who are under 22 years of age and beneficiaries who*
39 *are over 64 years of age in facilities that are designated as*
40 *institutions for mental disease.*

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, “small counties” means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

(5) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse MHPs in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the MHP for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda.....	3.5991
Alpine.....	.0050
Amador.....	.0490
Butte.....	.8724
Calaveras.....	.0683
Colusa.....	.0294
Contra Costa.....	1.5544
Del Norte.....	.1359
El Dorado.....	.2272

	<i>County</i>	<i>Percentage</i>
1	<i>Fresno</i>	2.5612
2	<i>Glenn</i>.....	.0597
3	<i>Humboldt</i>.....	.1987
4	<i>Imperial</i>.....	.6269
5	<i>Inyo</i>.....	.0802
6	<i>Kern</i>	2.6309
7	<i>Kings</i>.....	.4371
8	<i>Lake</i>.....	.2955
9	<i>Lassen</i>.....	.1236
10	<i>Los Angeles</i>	31.3239
11	<i>Madera</i>.....	.3882
12	<i>Marin</i>	1.0290
13	<i>Mariposa</i>.....	.0501
14	<i>Mendocino</i>.....	.3038
15	<i>Merced</i>.....	.5077
16	<i>Modoc</i>.....	.0176
17	<i>Mono</i>.....	.0096
18	<i>Monterey</i>.....	.7351
19	<i>Napa</i>.....	.2909
20	<i>Nevada</i>.....	.1489
21	<i>Orange</i>	8.0627
22	<i>Placer</i>.....	.2366
23	<i>Plumas</i>.....	.0491
24	<i>Riverside</i>	4.4955
25	<i>Sacramento</i>	3.3506
26	<i>San Benito</i>.....	.1171
27	<i>San Bernardino</i>	6.4790
28	<i>San Diego</i>	12.3128
29	<i>San Francisco</i>	3.5473
30	<i>San Joaquin</i>	1.4813
31	<i>San Luis Obispo</i>.....	.2660
32	<i>San Mateo</i>.....	.0000
33	<i>Santa Barbara</i>.....	.0000
34	<i>Santa Clara</i>	1.9284
35	<i>Santa Cruz</i>	1.7571
36	<i>Shasta</i>.....	.3997
37	<i>Sierra</i>.....	.0105
38	<i>Siskiyou</i>.....	.1695
39	<i>Solano</i>.....	.0000
40		

County	Percentage
Sonoma.....	.5766
Stanislaus.....	1.7855
Sutter/Yuba.....	.7980
Tehama.....	.1842
Trinity.....	.0271
Tulare.....	2.1314
Tuolumne.....	.2646
Ventura.....	.8058
Yolo.....	.4043

(6) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other specialty mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(7) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements. The share of cost ratio arrangement for EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver between the state and the counties in existence during the 2007–08 fiscal year shall remain as the share of cost ratio arrangement for these services unless changed by statute.

(8) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(9) (A) For the managed mental health care program, exclusive of EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver, the department shall establish, by regulation, a risk-sharing arrangement between the department and counties that contract with the department as MHPs to provide an increase in the state General Fund allocation, subject to the availability of funds, to the MHP under this section,

1 *where there is a change in the obligations of the MHP required*
2 *by federal or state law or regulation, or required by a change in*
3 *the interpretation or implementation of any such law or regulation*
4 *which significantly increases the cost to the MHP of performing*
5 *under the terms of its contract.*

6 *(B) During the time period required to redetermine the*
7 *allocation, payment to the MHP of the allocation in effect at the*
8 *time the change occurred shall be considered an interim payment,*
9 *and shall be subject to increase effective as of the date on which*
10 *the change is effective.*

11 *(C) In order to be eligible to participate in the risk-sharing*
12 *arrangement, the county shall demonstrate, to the satisfaction of*
13 *the department, its commitment or plan of commitment of all*
14 *annual funding identified in the total mental health resource base,*
15 *from whatever source, but not including county funds beyond the*
16 *required maintenance of effort, to be spent on specialty mental*
17 *health services. This determination of eligibility shall be made*
18 *annually. The department may limit the participation in a*
19 *risk-sharing arrangement of any county that transfers funds from*
20 *the mental health account to the social services account or the*
21 *health services account, in accordance with Section 17600.20*
22 *during the year to which the transfers apply to MHP expenditures*
23 *for the new obligation that exceed the total mental health resource*
24 *base, as measured before the transfer of funds out of the mental*
25 *health account and not including county funds beyond the required*
26 *maintenance of effort. The State Department of Mental Health*
27 *shall participate in a risk-sharing arrangement only after a county*
28 *has expended its total annual mental health resource base.*

29 *(d) The following provisions govern the administrative*
30 *responsibilities of the department and the State Department of*
31 *Health Care Services:*

32 *(1) It is the intent of the Legislature that the department and*
33 *the State Department of Health Care Services consult and*
34 *collaborate closely regarding administrative functions related to*
35 *and supporting the managed mental health care program in*
36 *general, and the delivery and provision of EPSDT specialty mental*
37 *health services provided under the Medi-Cal specialty mental*
38 *health services waiver, in particular. To this end, the following*
39 *provisions shall apply:*

1 (A) Commencing in the 2009–10 fiscal year, and each fiscal
2 year thereafter, the department shall consult with the State
3 Department of Health Care Services and amend the interagency
4 agreement between the two departments as necessary to include
5 improvements or updates to procedures for the accurate and timely
6 processing of Medi-Cal claims for specialty mental health services
7 provided under the Medi-Cal specialty mental health services
8 waiver. The interagency agreement shall ensure that there are
9 consistent and adequate time limits, consistent with federal and
10 state law, for claims submitted and the need to correct errors.

11 (B) Commencing in the 2009–10 fiscal year, and each fiscal
12 year thereafter, upon a determination by the department and the
13 State Department of Health Care Services that it is necessary to
14 amend the interagency agreement, the department and the State
15 Department of Health Care Services shall process the interagency
16 agreement to ensure final approval by January 1, for the following
17 fiscal year, and as adjusted by the budgetary process.

18 (C) The interagency agreement shall include, at a minimum,
19 all of the following:

20 (i) A process for ensuring the completeness, validity, and timely
21 processing of Medi-Cal claims as mandated by the federal Centers
22 for Medicare and Medicaid Services.

23 (ii) Procedures and timeframes by which the department shall
24 submit complete, valid, and timely invoices to the State Department
25 of Health Care Services, which shall notify the department of
26 inconsistencies in invoices that may delay payments.

27 (iii) Procedures and timeframes by which the department shall
28 notify MHPs of inconsistencies that may delay payment.

29 (2) (A) The department shall consult with the State Department
30 of Health Care Services and the California Mental Health
31 Directors Association in February and September of each year to
32 review the methodology used to forecast future trends in the
33 provision of EPSDT specialty mental health services provided
34 under the Medi-Cal specialty mental health services waiver, to
35 estimate these yearly EPSDT specialty mental health services
36 related costs, and to estimate the annual amount of funding
37 required for reimbursements for EPSDT specialty mental health
38 services to ensure relevant factors are incorporated in the
39 methodology. The estimates of costs and reimbursements shall
40 include both federal financial participation amounts and any state

1 *General Fund amounts for EPSDT specialty mental health services*
2 *provided under the State Medi-Cal specialty mental health services*
3 *waiver. The department shall provide the State Department of*
4 *Health Care Services the estimate adjusted to a cash basis.*

5 *(B) The estimate of annual funding described in subparagraph*
6 *(A) shall include, but not be limited to, the following factors:*

7 *(i) The impacts of interactions among caseload, type of services,*
8 *amount or number of services provided, and billing unit cost of*
9 *services provided.*

10 *(ii) A systematic review of federal and state policies, trends over*
11 *time, and other causes of change.*

12 *(C) The forecasting and estimates performed under this*
13 *paragraph are primarily for the purpose of providing the*
14 *Legislature and the Department of Finance with projections that*
15 *are as accurate as possible for the state budget process, but will*
16 *also be informative and useful for other purposes. Therefore, it is*
17 *the intent of the Legislature that the information produced under*
18 *this paragraph shall be taken into consideration under paragraph*
19 *(10) of subdivision (c).*

20 *(e) This section shall become operative on July 1, 2012.*

21 *SEC. 9. Section 14680 of the Welfare and Institutions Code is*
22 *amended to read:*

23 14680. (a) The Legislature finds and declares that there is a
24 need to establish a standard set of guidelines that governs the
25 provision of managed Medi-Cal mental health services at the local
26 level, consistent with federal law.

27 (b) Therefore, in order to ensure quality and continuity, and to
28 efficiently utilize mental health services under the Medi-Cal
29 program, there shall be developed mental health plans for the
30 provision of those services that are consistent with guidelines
31 established by the State Department of Mental Health.

32 (c) It is the intent of the Legislature that mental health plans be
33 developed and implemented regardless of whether other systems
34 of Medi-Cal managed care are implemented.

35 (d) It is further the intent of the Legislature that Sections 14681
36 to 14685, inclusive, shall not be construed to mandate the
37 participation of counties in Medi-Cal managed mental health care
38 plans.

1 (e) *This section shall remain in effect only until July 1, 2012,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2013, deletes or extends that date.*

4 SEC. 10. *Section 14680 is added to the Welfare and Institutions*
5 *Code, to read:*

6 14680. (a) *The Legislature finds and declares that there is a*
7 *need to establish a standard set of guidelines that governs the*
8 *provision of managed Medi-Cal mental health services at the local*
9 *level, consistent with federal law.*

10 (b) *Therefore, in order to ensure quality and continuity, and to*
11 *efficiently utilize mental health services under the Medi-Cal*
12 *program, there shall be developed mental health plans for the*
13 *provision of those services that are consistent with guidelines*
14 *established by the State Department of Mental Health. The*
15 *guidelines shall be consistent with federal Medicaid requirements*
16 *and the approved Medicaid state plan and waivers to ensure full*
17 *and timely federal reimbursement to mental health plans for*
18 *services that are rendered and reimbursed consistent with federal*
19 *Medicaid requirements.*

20 (c) *It is the intent of the Legislature that mental health plans be*
21 *developed and implemented regardless of whether other systems*
22 *of Medi-Cal managed care are implemented.*

23 (d) *It is further the intent of the Legislature that Sections 14681*
24 *to 14685, inclusive, shall not be construed to mandate the*
25 *participation of counties in Medi-Cal managed mental health care*
26 *plans.*

27 (e) *This section shall become operative on July 1, 2012.*

28 SEC. 11. *Section 14684 of the Welfare and Institutions Code*
29 *is amended to read:*

30 14684. (a) *Notwithstanding any other provision of state law,*
31 *and to the extent permitted by federal law, mental health plans,*
32 *whether administered by public or private entities, shall be*
33 *governed by the following guidelines:*

34 ~~(a)~~
35 (1) *State and federal Medi-Cal funds identified for the diagnosis*
36 *and treatment of mental disorders shall be used solely for those*
37 *purposes. Administrative costs shall be clearly identified and shall*
38 *be limited to reasonable amounts in relation to the scope of services*
39 *and the total funds available. Administrative requirements shall*
40 *not impose costs exceeding funds available for that purpose.*

~~(b)~~

(2) The development of the mental health plan shall include a public planning process that includes a significant role for Medi-Cal beneficiaries, family members, mental health advocates, providers, and public and private contract agencies.

~~(c)~~

(3) The mental health plan shall include appropriate standards relating to quality, access, and coordination of services within a managed system of care, and costs established under the plan, and shall provide opportunities for existing Medi-Cal providers to continue to provide services under the mental health plan, as long as the providers meet those standards.

~~(d)~~

(4) Continuity of care for current recipients of services shall be ensured in the transition to managed mental health care.

~~(e)~~

(5) Medi-Cal covered mental health services shall be provided in the beneficiary's home community, or as close as possible to the beneficiary's home community. Pursuant to the objectives of the rehabilitation option described in subdivision (a) of Section 14021.4, mental health services may be provided in a facility, a home, or other community-based site.

~~(f)~~

(6) Medi-Cal beneficiaries whose mental or emotional condition results or has resulted in functional impairment, as defined by the department, shall be eligible for covered mental health services. Emphasis shall be placed on adults with serious and persistent mental illness and children with serious emotional disturbances, as defined by the department.

~~(g)~~

(7) Each mental health plan shall include a mechanism for monitoring the effectiveness of, and evaluating accessibility and quality of, services available. The plan shall utilize and be based upon state-adopted performance outcome measures and shall include review of individual service plan procedures and practices, a beneficiary satisfaction component, and a grievance system for beneficiaries and providers.

~~(h)~~

(8) Each mental health plan shall provide for culturally competent and age-appropriate services, to the extent feasible. The

1 mental health plan shall assess the cultural competency needs of
2 the program. The mental health plan shall include, as part of the
3 quality assurance program required by Section 4070, a process to
4 accommodate the significant needs with reasonable timeliness.
5 The department shall provide demographic data and technical
6 assistance. Performance outcome measures shall include a reliable
7 method of measuring and reporting the extent to which services
8 are culturally competent and age-appropriate.

9 *(b) This section shall remain in effect only until July 1, 2012,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2013, deletes or extends that date.*

12 SEC. 12. Section 14684 is added to the Welfare and Institutions
13 Code, to read:

14 14684. (a) Notwithstanding any other provision of state law,
15 and to the extent permitted by federal law, mental health plans,
16 whether administered by public or private entities, shall be
17 governed by the following guidelines:

18 (1) State and federal Medi-Cal funds identified for the diagnosis
19 and treatment of mental disorders shall be used solely for those
20 purposes. Administrative costs incurred by counties for activities
21 necessary for the administration of the mental health plan shall
22 be clearly identified and shall be reimbursed in a manner consistent
23 with federal Medicaid requirements and the approved Medicaid
24 state plan and waivers. Administrative requirements shall be based
25 on and limited to federal Medicaid requirements and the approved
26 Medicaid state plan and waivers, and shall not impose costs
27 exceeding funds available for that purpose.

28 (2) The development of the mental health plan shall include a
29 public planning process that includes a significant role for
30 Medi-Cal beneficiaries, family members, mental health advocates,
31 providers, and public and private contract agencies.

32 (3) The mental health plan shall include appropriate standards
33 relating to quality, access, and coordination of services within a
34 managed system of care, and costs established under the plan, and
35 shall provide opportunities for existing Medi-Cal providers to
36 continue to provide services under the mental health plan, as long
37 as the providers meet those standards.

38 (4) Continuity of care for current recipients of services shall be
39 ensured in the transition to managed mental health care.

1 (5) *Medi-Cal covered mental health services shall be provided*
2 *in the beneficiary's home community, or as close as possible to*
3 *the beneficiary's home community. Pursuant to the objectives of*
4 *the rehabilitation option described in subdivision (a) of Section*
5 *14021.4, mental health services may be provided in a facility, a*
6 *home, or other community-based site.*

7 (6) *Medi-Cal beneficiaries whose mental or emotional condition*
8 *results or has resulted in functional impairment, as defined by the*
9 *department, shall be eligible for covered mental health services.*
10 *Emphasis shall be placed on adults with serious and persistent*
11 *mental illness and children with serious emotional disturbances,*
12 *as defined by the department.*

13 (7) *Each mental health plan shall include a mechanism for*
14 *monitoring the effectiveness of, and evaluating accessibility and*
15 *quality of, services available. The plan shall utilize and be based*
16 *upon state-adopted performance outcome measures and shall*
17 *include review of individual service plan procedures and practices,*
18 *a beneficiary satisfaction component, and a grievance system for*
19 *beneficiaries and providers.*

20 (8) *Each mental health plan shall provide for culturally*
21 *competent and age-appropriate services, to the extent feasible.*
22 *The mental health plan shall assess the cultural competency needs*
23 *of the program. The mental health plan shall include, as part of*
24 *the quality assurance program required by Section 4070, a process*
25 *to accommodate the significant needs with reasonable timeliness.*
26 *The department shall provide demographic data and technical*
27 *assistance. Performance outcome measures shall include a reliable*
28 *method of measuring and reporting the extent to which services*
29 *are culturally competent and age-appropriate.*

30 (b) *This section shall become operative on July 1, 2012.*

31
32
33 **All matter omitted in this version of the bill**
34 **appears in the bill as amended in the**
35 **Senate, July 11, 2011. (JR11)**
36